

Claim 1 is amended to more clearly define the subject matter of the claim to include "comprising" language in the preamble and to eliminate the hybridization limitation in the claim. Claim 1 is further amended to recite "the nucleic acid molecule that comprises SEQ ID NO:13." Claim 7 is amended to more clearly define the subject matter of the claim as an isolated nucleic acid molecule that encodes a polypeptide that has at least a 75% amino acid identity to the full length amino acid sequence set forth as SEQ ID NO:2. Support for the amendment can be found at least on page 12, lines 15-16 of the specification. Claim 29 is amended to remove the hybridization language in (i) and to remove the dependence on cancelled claim 4. Applicants cancel claims 4-6.

Rejection of Claims Under 35 U.S.C. §112, first paragraph

The Examiner rejects claims 1, 8, 10 and 26 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

According to the Examiner, while being enabling for a nucleic acid molecule encoding the amino acid sequence of SEQ ID NO:2, it does not reasonably provide enablement for a nucleic acid molecule which hybridizes to SEQ ID NO:2. To facilitate allowance of the claim, Applicants reserve the right to pursue claims directed to the subject matter (hybridizing molecules) excised by this amendment in one or more continuing applications. Applicants have amended claim 1 to specifically define the nucleic acid molecules as SEQ ID NO:1 and SEQ ID NO:13, both of which encode the amino acid sequence of SEQ ID NO:2. Applicants believe this amendment obviates the rejection.

The Examiner rejects claim 26 under 35 U.S.C. §112, first paragraph. The Examiner indicates that the basis for the rejection is a lack of limitations to the hybridization conditions under which the first nucleic acid molecule hybridizes to the second nucleic acid molecule. Applicants have amended claim 26 to eliminate the hybridization requirements for the first nucleic acid to a second nucleic acid molecule. Applicants believe this amendment obviates the rejection.

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The Examiner rejects claim 7 under 35 U.S.C. §112, first paragraph. The Examiner asserts that claim 7 meaning that the polypeptide encoded by the isolated nucleic acid molecule of claim 7 can only be interpreted to encompass a polypeptide consisting of 397 (75% of 530 amino acids) contiguous amino acids of SEQ ID NO:2. The claim does not indicate that the polypeptide consists of 75% of contiguous amino acids of SEQ ID NO:2, but rather has 75% identity across the full length of the sequence of SEQ ID NO:2. Support for this is found at least at page 12 of the specification, which describes homologs and alleles as sharing at least 75% amino acid identity to SEQ ID NO:2. Applicants have amended claim 7 to clarify the meaning of 75% amino acid identity between the polypeptide and SEQ ID NO:2. Applicants believe this amendment obviates the rejection.

In view of the foregoing amendments and arguments, Applicants believe that the foregoing rejections of claims under 35 U.S.C. §112, first paragraph, should be withdrawn.

Applicants believe that each of the pending claims is in condition for allowance. Applicants respectfully request that the Examiner telephone the undersigned attorney in the event that the claims are not found to be in condition for allowance.

If the Examiner has any questions and believes that a telephone conference with Applicants' attorney would prove helpful in expediting the prosecution of this application, the Examiner is urged to call the undersigned at (617) 720-3500 (Extension 233).

Respectfully submitted,


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(b) nucleic acid molecules that differ from the nucleic acid molecules of (a) in codon sequence due to the degeneracy of the genetic code, and

(c) complements of (a) or (b),
and

(ii) a control comprising an amount of an isolated nucleic acid of claim [as in any one of claims] 1 [or 4] for comparing to a measured value of hybridization of said nucleic acid agent to said isolated nucleic acid in (i).



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APPL PARTS

IMIS
Internal Misc. Paper
LET.
Misc. Incoming Letter

371P
PCT Papers in a 371 Application

A...
Amendment Including Elections

ABST
Abstract

ADS
Application Data Sheet

AF/D
Affidavit or Exhibit Received

APPENDIX
Appendix

ARTIFACT
Artifact

BIB
Bib Data Sheet

CLM
Claim

COMPUTER
Computer Program Listing

CRFL
All CRF Papers for Backfile

DIST
Terminal Disclaimer Filed

DRW
Drawings

FOR
Foreign Reference

FRPR
Foreign Priority Papers

IDS
IDS Including 1449

NPL
Non-Patent Literature

OATH
Oath or Declaration

PET.
Petition

RETMAIL
Mail Returned by USPS

SEQLIST
Sequence Listing

SPEC
Specification

SPEC NO
Specification Not in English

TRNA
Transmittal New Application

CTNF
Count Non-Final

CTRS
Count Restriction

EXIN
Examiner Interview

M903
DO/EO Acceptance

M905
DO/EO Missing Requirement

NFDR
Formal Drawing Required

NOA
Notice of Allowance

PETDEC
Petition Decision

OUTGOING

CTMS
Misc. Office Action

1449
Signed 1449

892

ABN
Abandonment

APDEC
Board of Appeals Decision

APEA
Examiner Answer

CTAV
Count Advisory Action

CTEQ
Count Ex parte Quayle

CTFR
Count Final Rejection

INCOMING

AP.B
Appeal Brief

C.AD
Change of Address

N/AP
Notice of Appeal

PA..
Change in Power of Attorney

REM
Applicant Remarks in Amendment

02/21/03XT/ 1
Extension of Time filed separate

BACKFILE DOCUMENT INDEX SHEET

Internal

SRNT
Examiner Search Notes

CLMPTO
PTO Prepared Complete Claim Set

ECBOX
Evidence Copy Box Identification

WCLM
Claim Worksheet

WFEE
Fee Worksheet

File Wrapper

FWCLM
File Wrapper Claim

IIFW
File Wrapper Issue Information

SRFW
File Wrapper Search Info